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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

LEA MÁRQUEZ PETERSON - Chairwoman

SANDRA D. KENNEDY

JUSTIN OLSON

ANNA TOVAR

JIM O'CONNOR

JUL 11 2022**DOCKETED BY**

In the matter of)

BLOCKFI LENDING LLC, a Delaware
limited liability company,)

Respondent.)

) DOCKET NO. S-21193A-22-0121

) DECISION NO. 78605) **ORDER TO CEASE AND DESIST AND**
) **ORDER FOR ADMINISTRATIVE PENALTY**
) **AND CONSENT TO SAME**
) **BY: BLOCKFI LENDING LLC**

BlockFi Lending LLC ("BlockFi") elects to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order to Cease and Desist and Order for Administrative Penalty ("Order"). Solely for the purpose of terminating the Multistate Working Group investigation and in settlement of the issues contained in this Order, BlockFi admits the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to the entry of this Order by the Commission.

I.**FINDINGS OF FACT**

1. BlockFi is a Delaware limited liability company formed on January 11, 2018. BlockFi is a New Jersey-based financial services company that offered and sold interest-bearing digital asset accounts called BlockFi Interest Accounts ("BIAs"), through which investors lent digital assets to BlockFi in exchange for BlockFi's promise to provide variable monthly interest payment. BlockFi is

1 the issuer of the BIAs. BlockFi has not been registered by the Commission as a securities salesman
2 or dealer, and none of BlockFi's securities have been registered by the Commission.

3 2. State securities regulators, as members of the North American Securities
4 Administrators Association ("NASAA"), formed a working group (the "Multistate Working Group")
5 and conducted an investigation into whether BIAs involved the offer and sale of unregistered
6 securities by BlockFi to retail investors.

7 3. BlockFi cooperated with state securities regulators and the Multistate Working Group
8 conducting the investigation by responding to inquiries, providing documentary evidence and other
9 materials, and providing access to facts relating to the investigations.

10 4. BlockFi advised the Multistate Working Group of its agreement to resolve the
11 investigation pursuant to the terms specified in this Order and pursuant to the multistate resolution
12 recommended by the Multistate Working Group.

13 5. BlockFi Inc., a Delaware corporation, incorporated on August 1, 2017, with offices at
14 201 Montgomery Street, Suite 263, Jersey City, New Jersey, is a financial services company that,
15 through its subsidiaries, generates revenue through cryptocurrency and other digital asset trading,
16 lending, and borrowing, as well as investments and other types of transactions. BlockFi Inc. is the
17 parent company of BlockFi.

18 6. BlockFi Trading LLC, a Delaware limited liability company formed on May 28, 2019,
19 with offices at 201 Montgomery Street, Suite 263, Jersey City, New Jersey, is a wholly owned
20 subsidiary of BlockFi Inc. and acts as a money transmitter that accepts money and digital assets from
21 investors and transfers the funds to BlockFi for investment in BIAs.

22 **The Offer and Sale of BIA Securities**

23 7. From at least March 4, 2019, through February 14, 2022 (the "Relevant Period"),
24 BlockFi has offered and sold securities in the form of interest-bearing digital asset accounts called
25 BIAs and marketed, offered, and sold those securities to Arizona residents. During the Relevant
26

1 Period, BlockFi's offer and sale of BIAs was not done subject to an exception or exemption from
2 registration.

3 8. On March 4, 2019, BlockFi publicly announced the launch of the BIA, through which
4 investors could lend digital assets to BlockFi and in exchange, receive interest, "paid monthly in
5 cryptocurrency." Interest began accruing the day after assets were transmitted to BlockFi and
6 compounded monthly, with interest payments made to accounts associated with each BIA investor,
7 in digital assets, on or about the first business day of each month.

8 9. Investors in BIAs lent digital assets to BlockFi in exchange for BlockFi's promise to
9 provide a variable monthly interest payment.

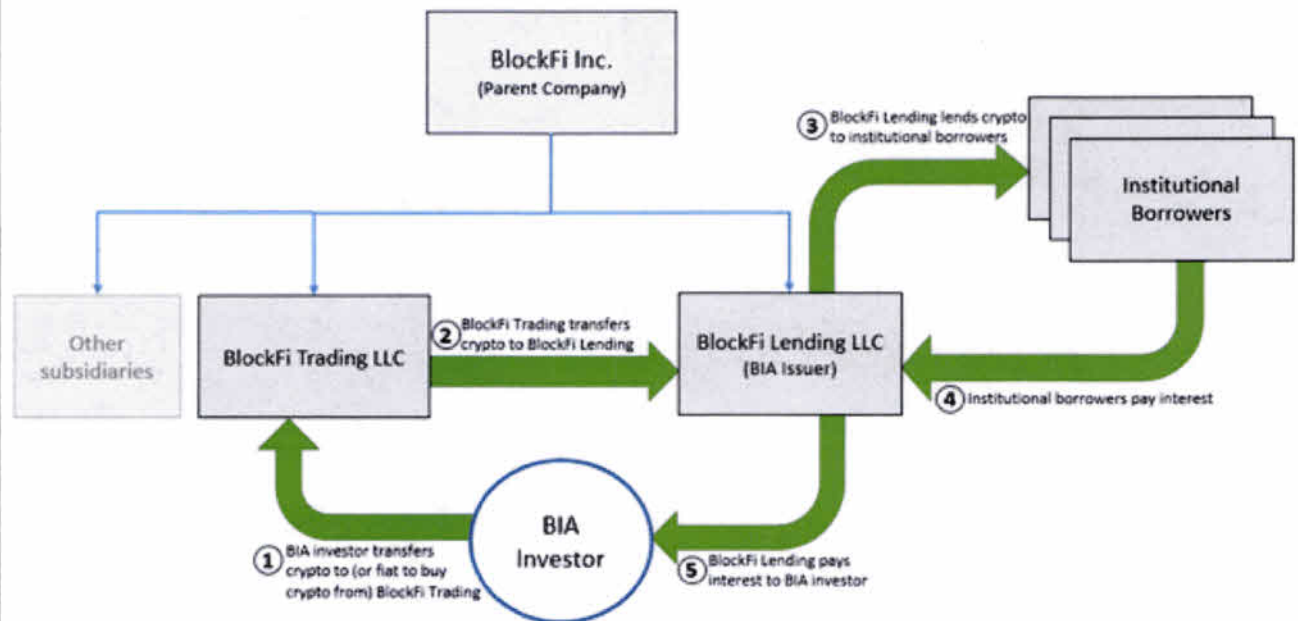
10 10. BlockFi represented it generated the interest it paid BIA investors by deploying
11 investors' digital assets in various ways, including loans made to institutional investors, lending U.S.
12 dollars to retail investors, and investing in digital assets, equities, and futures.

13 11. Under BlockFi's terms for the BIA, investors:
14 "grant BlockFi the right, without further notice to [the investor], to hold the
15 cryptocurrency held in [the] account in BlockFi's name or in another name, and to
16 pledge, repledge, hypothecate, rehypothecate, sell, lend, or otherwise transfer, invest
17 or use any amount of such cryptocurrency, separately or together with other property,
with all attendant rights of ownership, and for any period of time and without retaining
in BlockFi's possession and/or control a like amount of cryptocurrency, and to use or
invest such cryptocurrency at its own risk."

18 12. BlockFi offered and sold BIAs to obtain digital assets for the general use of its
19 business, namely to use the assets in its lending and investment activities, which generated income
20 both for BlockFi and to pay interest to BIA investors. BlockFi pooled the loaned assets, and exercised
21 full discretion over how much to hold, lend, and invest. BlockFi had complete legal ownership and
22 control over the digital assets loaned to it by BIA investors and advertised that it managed the risks
23 involved.

24 13. To begin investing in a BIA, an investor could transfer digital assets to the digital
25 wallet address assigned by BlockFi to the investor or purchase digital assets with fiat currency from
26 BlockFi Trading LLC for the purpose of investing in a BIA. BlockFi Trading LLC accepted the

digital asset or fiat from the investor, and then transferred the asset to BlockFi. BlockFi did not hold private keys for the investors' wallet addresses; rather, investors' digital assets were sent to BlockFi's wallet addresses at third-party custodians, as pictured below:



14. BIA investors were permitted to withdraw the equivalent to the digital assets they loaned to BlockFi and accrued interest at any time, with some limitations, and could borrow money in U.S. dollars against the amount of digital assets deposited in BIAs.

15. BlockFi adjusted the interest rates payable on BIAs for particular digital assets periodically, and typically at the start of each month. BlockFi set the rates based, in part, on "the yield that [BlockFi] can generate from lending," to institutional borrowers, and thus interest rates were correlated with the efforts that BlockFi put in to generate that yield. BlockFi periodically adjusted its interest rates payable on the BIAs in part after analysis of current yield on its investment and lending activity. BIA investors could demand that BlockFi repay the loaned digital assets at any time.

16. As of March 31, 2021, BlockFi and its affiliates held approximately \$14.7 billion in BIA investor assets. As of December 8, 2021, BlockFi and its affiliates held approximately \$10.4

1 billion in BIA investor assets, and had approximately 572,160 BIA investors, including 391,105
2 investors in the United States.

3 17. As of December 31, 2019, BlockFi and its affiliates held approximately \$4.6 million
4 in BIA investor assets in 134 accounts sold to Arizona residents. As of December 31, 2020, BlockFi
5 and its affiliates held approximately \$68.4 million in BIA investor assets in 1,350 accounts sold to
6 Arizona residents. As of December 31, 2021, BlockFi and its affiliates held approximately \$155.7
7 million in BIA investor assets in 9,891 accounts sold to Arizona residents.

8 18. On February 14, 2022, BlockFi agreed to cease and desist offering and selling BIAs
9 nationwide to new investors in the United States and cease and desist accepting further investments
10 or funds in the BIAs by current U.S. investors, including in Arizona.

11 **Marketing BlockFi's BIAs**

12 19. BlockFi offered and sold the BIA securities to investors, including retail investors,
13 through advertising and general solicitations on its website, www.blockfi.com. BlockFi also
14 promoted distribution of the BIA offering through its social media accounts, including YouTube,
15 Twitter, and Facebook. In addition, through its "Partner" program, an affiliate marketing program in
16 which participants could "earn passive income by introducing your audience to financial tools for
17 crypto investors," BlockFi extended its distribution of the BIA securities to retail investors through
18 certain offers and promotions.

19 20. BlockFi regularly touted the profits investors may earn by investing in a BIA. When
20 announcing the BIA, BlockFi promoted the interest earned, promising "an industry-leading 6.2%
21 [annual percentage yield]," compounded monthly. BlockFi described it as "an easy way for crypto
22 investors to earn bitcoin as they HODL."

23 21. Within the first few weeks of launching the BIA, BlockFi again touted investors'
24 potential for profit. On March 20, 2019, BlockFi announced that BIAs experienced significant
25 growth, including from large firms who participated in BIAs "as a way to bolster their returns."
26 BlockFi asserted that its "mission is to provide the average crypto investor with the tools to build

1 their wealth,” and that it “look[ed] forward to giving even more investors a chance to earn a yield on
2 their crypto.”

3 22. On April 1, 2019, BlockFi began to “tier” the interest rates that investors received,
4 initially announcing that “BIA balances of up to and including 25 [Bitcoin] or 500 [Ether] (equivalent
5 to roughly \$100,000 and \$70,000 respectively) will earn the 6.2% APY interest rate. All balances
6 over that limit will earn a tiered rate of 2% interest.” Even when changing the interest rates customers
7 receive, BlockFi touted the yields to investors. On August 27, 2021, BlockFi stated that the
8 adjustments to interest rates are done “with the goal of maintaining great rates for the maximum
9 number of clients.”

10 23. On January 1, 2021, BlockFi advertised that it had “distributed more than \$50 million
11 in monthly interest payments to [its] clients.”

12 24. As of November 1, 2021, the interest rates BlockFi paid investors ranged from 0.1%
13 to 9.5%, depending on the type of digital asset and the size of the investment. For example, investors
14 could receive 9.5% in interest for up to 40,000 Tether (“USDT”) and 8.5% for anything over 40,000
15 USDT, as well as 4.5% interest for up to 0.1 Bitcoin (“BTC”), 1% for 0.1 to 0.35 BTC, and 0.1% for
16 anything over 0.35 BTC.

17 **Misrepresentation of Collateralization Practices for Institutional Loans**

18 25. BlockFi’s offer of BIAs included an untrue statement of a material fact on its website
19 from March 4, 2019, to August 31, 2021, concerning its collateral practices and, therefore, the risks
20 associated with its lending activity.

21 26. Beginning at the time of the BIA launch on March 4, 2019, and continuing to August
22 31, 2021, BlockFi made a statement in multiple website posts that its institutional loans were
23 “typically” over-collateralized, when in fact, most institutional loans were not.

24 27. When BlockFi began offering the BIA investment, it intended to require over-
25 collateralization on a majority of its loans to institutional investors, but it quickly became apparent
26

1 that large institutional investors were frequently not willing to post large amounts of collateral to
2 secure their loans.

3 28. Approximately 24% of institutional digital asset loans made in 2019 were over-
4 collateralized; in 2020 approximately 16% were over-collateralized; and in 2021 (through June 30,
5 2021) approximately 17% were over-collateralized.

6 29. As a result, BlockFi's statement materially overstated the degree to which it secured
7 protection from defaults by institutional borrowers through collateral. Through operational oversight,
8 BlockFi's personnel failed to take steps to update the website statement to accurately reflect the fact
9 that most institutional loans were not over-collateralized.

10 30. Although BlockFi made other disclosures on its website regarding its risk
11 management practices, because of BlockFi's misrepresentations and omissions about the level of risk
12 in its loan portfolio, BIA investors did not have complete and accurate information with which to
13 evaluate the risk that, in the event of defaults by its institutional borrowers, BlockFi would be unable
14 to comply with its obligation to pay BIA investors the stated interest rates or return the loaned digital
15 assets and accrued interest to investors upon demand.

16 II.

17 CONCLUSIONS OF LAW

18 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
19 Arizona Constitution and the Securities Act.

20 2. BlockFi offered or sold securities within or from Arizona, within the meaning of
21 A.R.S. §§ 44-1801(16), 44-1801(22), and 44-1801(27).

22 3. BlockFi violated A.R.S. § 44-1841(A) by offering or selling securities that were
23 neither registered nor exempt from registration.

24 4. BlockFi violated A.R.S. § 44-1842(A) by offering or selling securities while neither
25 registered as a dealer or salesman nor exempt from registration.

1 5. BlockFi violated A.R.S. § 44-1991(2) by making an untrue statement of a material
2 fact.

3 6. BlockFi's conduct is grounds for an administrative penalty under A.R.S. § 44-2036.

4 **III.**

5 **ORDER**

6 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and BlockFi's
7 consent to the entry of this Order, attached and incorporated by reference, the Commission finds that
8 the following relief is appropriate, in the public interest, and necessary for the protection of investors:

9 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that BlockFi, and any of BlockFi's agents,
10 employees, successors and assigns, cease and desist from offering or selling the BIAs or any security
11 that is not registered, qualified, or exempt to new investors in Arizona and to cease and desist
12 accepting further investments or funds in the BIAs by current Arizona investors, unless and until the
13 BIAs or other securities are registered or otherwise exempt in Arizona; and nothing in this Order
14 precludes BlockFi from paying interest or returns to existing clients, refunding principal to investors
15 consistent with the terms of the BIAs, or otherwise lawfully dealing with existing clientele.

16 IT IS FURTHER ORDERED that BlockFi complies with the attached Consent to Entry of
17 Order.

18 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that BlockFi shall pay an
19 administrative penalty in the amount of \$943,396.22 as a result of the conduct set forth in the Findings
20 of Fact and Conclusions of Law. The total administrative penalty shall be paid in the following
21 installments:

- 22 a. 188,679.24 within 14 days of the entry of the Consent Order;
23 b. \$188,679.24 no later than August 15, 2022;
24 c. \$188,679.24 no later than February 14, 2023;
25 d. \$188,679.24 no later than August 14, 2023; and
26 e. \$188,679.26 no later than February 14, 2024.

1 Payment shall be made to the "State of Arizona."

2 If BlockFi fails to make any payment by the date agreed, all outstanding payments under this
3 Order, including post-order interest that may accrue on the outstanding amount, minus any payments
4 made, shall become due and payable immediately at the discretion of the staff of the Commission
5 without further application to the Commission.

6 For purposes of this Order, a bankruptcy filing by BlockFi shall be an act of default. If
7 BlockFi does not comply with this Order, any outstanding balance may be deemed in default and
8 shall be immediately due and payable.

9 IT IS FURTHER ORDERED, that if BlockFi fails to comply with this Order, the Commission
10 may bring further legal proceedings against BlockFi, including application to the superior court for
11 an order of contempt.

12 IT IS FURTHER ORDERED, that this Order is entered into solely for the purpose of
13 resolving the Multistate Working Group investigation and is not intended to be used for any other
14 purpose. Other than the obligations and provisions set forth herein, this Order does not limit or create
15 liability for BlockFi nor limit or create defenses for BlockFi to any claims.

16 IT IS FURTHER ORDERED, that this Order and the order of any other State in any
17 proceeding related to BlockFi's agreement to resolve the above-referenced multistate investigation
18 (collectively, the "Orders") shall not be used as sole grounds to deny registration or qualification of
19 securities issued by BlockFi or its parent BlockFi Inc.

20 IT IS FURTHER ORDERED, that this Order is not intended to subject any Covered Person
21 to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto
22 Rico, or the U.S. Virgin Islands, or under the rules or regulations of any securities or commodities
23 regulator or self-regulatory organization, including, without limitation, any disqualification from
24 relying upon the state or federal registration exemptions or safe harbor provisions. "Covered Persons"
25 means BlockFi, its parent, or any of its affiliates and their current or former officers, directors,
26 employees, or other persons that could otherwise be disqualified as a result of the Orders.

1 This Order shall be binding upon BlockFi, its parent and affiliates, and their respective
2 successors and assigns with respect to the provisions above and all future obligations, responsibilities,
3 undertakings, commitments, limitations, restrictions, events, and conditions.

4 This Order concludes the investigation by the Commission and resolves any other action the
5 Commission could commence against BlockFi and its affiliates concerning the Findings of Fact and
6 Conclusions of Law, including as it relates to the offer and sale of BIAs without registration,
7 qualification, or otherwise complying with an exemption and the above-referenced statements
8 regarding BlockFi's collateral practices made thereto during the Relevant Period.

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IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRWOMAN MÁRQUEZ PETERSON


COMMISSIONER KENNEDY

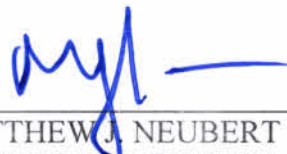

COMMISSIONER OLSON


COMMISSIONER TOVAR


COMMISSIONER O'CONNOR



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT,
Executive Director of the Arizona Corporation Commission,
have hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this 11 day of July, 2022.


MATTHEW J. NEUBERT
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Carolyn D. Buck, ADA
Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov.

(PSK)

CONSENT TO ENTRY OF ORDER

1
2 1. BlockFi Inc., BlockFi Lending LLC's parent, hereby acknowledges that it has been
3 served with a copy of this Order to Cease and Desist and Order for Administrative Penalty ("Order"),
4 has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has
5 waived the same.

6 2. BlockFi Lending LLC and BlockFi Inc. ("the BlockFi Entities") admit the jurisdiction
7 of the Commission over the subject matter of this proceeding. The BlockFi Entities acknowledge
8 that they have been fully advised of their right to a hearing to present evidence and call witnesses,
9 and the BlockFi Entities knowingly and voluntarily waive any and all rights to a hearing before the
10 Commission and all other rights otherwise available under Article 11 of the Securities Act and Title
11 14 of the Arizona Administrative Code as relates to this action by the Commission. The BlockFi
12 Entities acknowledge that this Order constitutes a valid final order of the Commission.

13 3. The BlockFi Entities knowingly and voluntarily waive any right under Article 12 of
14 the Securities Act to seek judicial review by any court by way of suit, appeal, or extraordinary relief
15 of the Commission's entry of this Order.

16 4. The BlockFi Entities agree that they shall not claim, assert, or apply for a tax
17 deduction or tax credit with regard to any state, federal, or local tax for any administrative penalty
18 that they shall pay pursuant to this Order.

19 5. BlockFi Inc. unconditionally guarantees payment of the administrative penalty in the
20 amount of Nine Hundred forty-three thousand three hundred ninety-six dollars and twenty-two cents
21 (\$943,396.22) as agreed in this Order.

22 6. The BlockFi Entities acknowledge and agree that this Order is entered into freely and
23 voluntarily and that no promise was made or coercion used to induce such entry.

24 7. The BlockFi Entities have been represented by an attorney in this matter, they have
25 reviewed this Order with their attorneys, Sullivan & Cromwell LLP, and they understand all terms it
26 contains. The BlockFi Entities acknowledge that their attorneys have apprised them of their rights

1 regarding any conflicts of interest arising from any multiple representations. The BlockFi Entities
2 acknowledge that they have each given their informed consent to such representation.

3 8. The BlockFi Entities neither admit nor deny the Findings of Fact and Conclusions of
4 Law contained in this Order. The BlockFi Entities agree that they shall not contest the validity of
5 the Findings of Fact and Conclusions of Law contained in this Order in any present or future
6 proceeding in which the Commission is a party.

7 9. The BlockFi Entities further agree that they shall not deny or contest the Findings of
8 Fact and Conclusions of Law contained in this Order in any present or future: (a) bankruptcy
9 proceeding in which the Commission is a party, or (b) non-criminal proceeding in which the
10 Commission is a party (collectively, "proceeding(s)"). The BlockFi Entities further agree that in any
11 such proceedings, the Findings of Fact and Conclusions of Law contained in this Order may be taken
12 as true and correct and that this Order shall collaterally estop them from re-litigating with the
13 Commission, in any forum, the accuracy of the Findings of Fact and Conclusions of Law contained
14 in this Order. In the event either of the BlockFi Entities pursues bankruptcy protection in the future,
15 they further agree that in such bankruptcy proceeding, pursuant to 11 U.S.C. § 523(a)(19), the
16 following circumstances exist:

17 A. The obligations incurred as a result of this Order are a result of the conduct set forth
18 in the Findings of Fact and Conclusions of Law in the Order and are for the violation of
19 Arizona state securities laws, pursuant to 11 U.S.C. § 523(a)(19)(A)(i);

20 B. This Order constitutes a judgment, order, consent order, or decree entered in a state
21 proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement agreement entered into by
22 the BlockFi Entities pursuant to 11 U.S.C. § 523(a)(19)(B)(ii), and a court order for damages,
23 fine, penalty, citation, restitution payment, disgorgement payment, attorney fee, cost or other
24 payment owed by the BlockFi Entities pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

25 10. By consenting to the entry of this Order, the BlockFi Entities agree not to make any
26 public statement that contradicts the Findings of Fact or Conclusions of Law in this Order. Nothing

1 in this paragraph affects the BlockFi Entities' (a) testimonial obligations; (b) rights to take legal or
2 factual positions in defense of litigation or in defense of other legal proceedings in which the
3 Commission is not a party; or (c) rights to make public statements that are factual.

4 11. While this Order settles this administrative matter between the BlockFi Entities and
5 the Commission, the BlockFi Entities understand that this Order does not preclude the Commission
6 from instituting other administrative or civil proceedings based on violations that are not addressed
7 by this Order.

8 12. The BlockFi Entities understand that this Order does not preclude the Commission
9 from referring this matter to any governmental agency for administrative, civil, or criminal
10 proceedings that may be related to the matters addressed by this Order.

11 13. The BlockFi Entities understand that this Order does not preclude any other agency
12 or officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
13 proceedings that may be related to matters addressed by this Order.

14 14. The BlockFi Entities consent to the entry of this Order and agree to be fully bound by
15 its terms and conditions.

16 15. The BlockFi Entities acknowledge and understand that if they fail to comply with the
17 provisions of the order and this consent, the Commission may bring further legal proceedings against
18 them, including application to the superior court for an order of contempt.

19 16. The BlockFi Entities understand that default shall render them liable to the
20 Commission for its costs of collection, including reasonable attorneys' fees and interest at the
21 maximum legal rate.

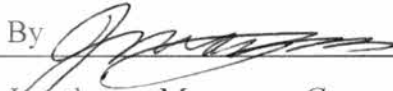
22 17. The BlockFi Entities agree and understand that if they fail to make any payment as
23 required in the Order, any outstanding balance shall be in default and shall be immediately due and
24 payable without notice or demand. The BlockFi Entities agree and understand that acceptance of
25 any partial or late payment by the Commission is not a waiver of default by the Commission.
26

18. The BlockFi Entities further undertake and agree to cease and desist offering or selling
BIAs or any security that is not registered, qualified, or exempt to new investors in Arizona and cease
and desist accepting further investments or funds in the BIAs by current Arizona investors unless and
until the BIAs or other securities have been registered by the Commission or are otherwise exempt.

19. The BlockFi Entities undertake and agree to cease and desist making statements that
are materially misleading or otherwise likely to deceive the public.

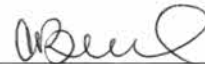
20. Jonathan Mayers represents that he is General Counsel of BlockFi Lending LLC and
has been authorized by BlockFi Lending LLC to enter into this Order for and on behalf of it.

21. Jonathan Mayers represents that he is General Counsel of BlockFi Inc. and has been
authorized by BlockFi Inc. to enter into this Order for and on behalf of it.

By 
Jonathan Mayers, General Counsel,
BlockFi Inc. and BlockFi Lending LLC

STATE OF New York)
County of Kings) ss

SUBSCRIBED AND SWORN TO BEFORE me this 20th day of May, 2022



NOTARY PUBLIC

My commission expires:

04/28/2026

Carline Bradshaw
Notary Public, State of New York
Reg. No. No. 01BR6302051
Qualified in Kings County
Commission Expires 04/28/2026

1 SERVICE LIST FOR: In re BLOCKFI LENDING LLC

2
3 Steven R. Peikin and Amanda Shami
4 Sullivan & Cromwell LLP
5 125 Broad Street
6 New York, New York 10004-2498
7 Attorneys for BlockFi Lending LLC
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